

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



December 20, 2001

Regulation Packages 0600-14

CDSS MANUAL LETTER NO. CCL-01-07

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 6,
CHAPTER 1, GENERAL LICENSING REQUIREMENTS

Regulation Package #0600-14**Effective 6/29/01****Sections 80018, 80027, 80029, 80032, 80033, 80034, 80036, and 80041**

Assembly Bill (AB) 396, Chapter 709, Statutes of 1992 enacted a new fee structure for community care facilities. It replaced renewal fees with annual fees. As a result, licenses issued by the Department no longer have an expiration date, they are perpetual. Renewal licenses are no longer necessary and are not issued. These proposed amendments repeal distinctions made between "initial" and "renewal" licenses; references to terms of licensure, to renewal applications, renewal fees, and renewal licenses; and replace references to "renewal" with "annual" when appropriate. Specifically, the regulations make nonsubstantive revisions to current regulations by amendment, repeal, or by making other minor revisions relating to the renewal process, and by replacing the term "renewal" with "annual" as appropriate. Various sections have also been renumbered for consistency.

Since these regulations were nonsubstantive they did not require a public hearing.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-01-06. The latest prior manual letter containing General Licensing Requirements changes was Manual Letter No. CCL-01-01.

<u>Page(s)</u>	<u>Replace(s)</u>
35 and 36	Pages 35 and 36
59 and 60	Pages 59 and 60
62	Page 62
65 thru 67	Pages 65 thru 67
70 and 71	Pages 70 and 71
75	Pages 75 thru 77

Attachment

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80018 APPLICATION FOR LICENSE (Continued)**80018**

- (14) Fingerprint cards as specified in Section 80019.
- (15) Information required by Health and Safety Code Section 1522.1.

HANDBOOK BEGINS HERE

- (A) Prior to granting a license to, or otherwise approving, any individual to care for children, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The department shall investigate any reports received from the Child Abuse Registry. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.

HANDBOOK ENDS HERE

- (16) The bonding affidavit specified in Section 80025(a).
- (17) A health screening report on the applicant as specified in Section 80065(g).
- (18) The fee for processing the application by the requested capacity as specified in Section 80036.
- (19) Such other information as may be required pursuant to Section 1520(g) of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1520(g) provides:

Any other information which may be required by the department for the proper administration and enforcement of this chapter.

HANDBOOK ENDS HERE

- (e) The application shall be signed by the applicant.
 - (1) If the applicant is a partnership, the application shall be signed by each partner.
 - (2) If the applicant is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or authorized representative.

80018 APPLICATION FOR LICENSE (Continued)**80018**

- (f) The application shall be filed with the licensing agency which serves the geographical area in which the facility is located.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1520.11, 1522, 1522.1, 1523.1, 1524.5, and 1560, Health and Safety Code.

80019 CRIMINAL RECORD CLEARANCE**80019**

- (a) The Department shall conduct a criminal record review of all individuals specified in Health and Safety Code Section 1522(b) and shall have the authority to approve or deny a facility license, or employment, residence, or presence in the facility, based upon the results of such review.

HANDBOOK BEGINS HERE

- (1) Section 1522(a) of the Health and Safety Code provides in part:

Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of, or, after having been arrested and released on bail or on his or her own recognizance, is currently awaiting trial for, a crime other than a minor traffic violation, or arrested for any crime specified in Section 290 of the Penal Code or arrested for violating Section 245, 273.5 subdivision (b) of Section 273a, or prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. That criminal history information shall include the full criminal record, if any, of those persons. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section. If it is found that the applicant, or any other person specified in subdivision (b), has been convicted of, or is awaiting trial for, a crime, other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of the fact and the application shall be denied unless the director grants an exemption pursuant to subdivision (f). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the California Department of Social Services with a statement of that fact.

HANDBOOK CONTINUES

80027 INITIAL APPLICATION REVIEW (Continued)

80027

HANDBOOK CONTINUES

- (b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in subdivision (a) and the application was denied within the last year, the department shall cease further review of the application under either of the following circumstances as follows:
- (1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.
 - (2) In cases where the department informed the applicant of his or her right to petition for a hearing as specified in Section 1526 and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence. The cessation of review shall not constitute a denial of the application.

HANDBOOK ENDS HERE

- (2) The circumstances and conditions in which the licensing agency may continue to review a previously denied application shall include, but are not limited to, the following:
- (A) A fire clearance previously denied, but now approved;
 - (B) An Administrator who did not meet the minimum qualifications, but now fulfills the qualifications; or
 - (C) A person with a criminal record, which was the basis for license denial, is no longer associated with the facility.

80027 INITIAL APPLICATION REVIEW (Continued)**80027**

- (3) This review shall not constitute approval of the application.
- (4) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code Section 1520.3.
- (5) The application processing fee shall be nonrefundable as specified in Section 80036(d).

HANDBOOK BEGINS HERE

- (d) The licensing agency shall complete the following as part of the application review process:
 - (1) A site visit to the proposed facility and a determination of the qualifications of the applicant.
 - (2) A determination that the applicant has secured an appropriate fire clearance from the State Fire Marshal, if required.
 - (3) A determination that the applicant has the ability to comply with the provisions of the Community Care Facilities Act and the regulations in this division as specified in Health and Safety Code Section 1520.
 - (4) A determination that the facility complies with the provisions of the Community Care Facilities Act and the regulations in this division.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1524 and 1530, Health and Safety Code. Reference: Sections 1520, 1520.3, 1522.1, 1523.1, and 1524, Health and Safety Code; and Section 15376, Government Code.

80028 CAPACITY DETERMINATION**80028**

- (a) A license shall be issued for a specific capacity.
- (b) The number of persons for whom the facility is licensed to provide care and supervision shall be determined on the basis of the application review by the licensing agency, which shall take into consideration the following:
 - (1) The fire clearance specified in Section 80020.
 - (2) The licensee's/administrator's ability to comply with applicable law and regulation.
 - (3) Any other household members, including but not limited to persons under guardianship or conservatorship, who reside at the facility and their individual needs.
 - (4) Facilities which accept minor parents and his/her child(ren) shall have such children included in the facility's licensed capacity.
 - (5) Physical features of the facility, including available living space, which are necessary in order to comply with regulations.
 - (6) Number of available staff to meet the care and supervision needs of the clients.
 - (7) Any restrictions pertaining to the specific category of facility.
- (c) The licensing agency shall be authorized to issue a license for fewer clients than is requested when the licensing agency determines that:
 - (1) The licensee's responsibilities to other persons in the home, including persons under guardianship and conservatorship, would preclude provision of the care required by these regulations.
- (d) When the license is issued for fewer clients than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's rights to appeal the decision as specified in Section 80040.
- (e) The licensing agency shall have the authority to decrease existing licensed capacity with the licensee's agreement, when there is a change in any of the factors specified in (b) above.
 - (1) If the licensee does not agree to the decrease in capacity, the licensing agency shall have the authority to initiate revocation action as specified in Section 80042.

80028 CAPACITY DETERMINATION (Continued)**80028**

- (f) The licensing agency shall be authorized to restrict care to specific individuals.
- (1) If care and supervision is limited to specific individuals, the licensing agency shall specify the names of the individuals in a letter to the licensee.
 - (2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision as specified in Section 80040.

NOTE: Authority cited: Section 1530, Health and Safety Code and Section 10554, Welfare and Institutions Code. Reference: Section 11465, Welfare and Institutions Code and Sections 1501, 1523, 1524, 1528 and 1531, Health and Safety Code.

80029 WITHDRAWAL OF APPLICATION**80029**

- (a) An applicant shall have the right to withdraw an application.
- (1) Such withdrawal shall be in writing.

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1553 provides in part:

The licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law, or to enter an order denying the license upon any such ground, unless it has consented in writing to such withdrawal.

HANDBOOK ENDS HERE

- (2) The fee for processing the application shall be forfeited.

NOTE: Authority cited: Sections 1530 and 1553, Health and Safety Code. Reference: Sections 1520, 1523.1, 1524, and 1553, Health and Safety Code.

80032	TERMS OF AN INITIAL OR RENEWAL LICENSE	80032
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Repealed by CDSS Manual Letter CCL 01-07, effective 6/29/01

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1524, 1525 and 1529, Health and Safety Code.

80033 APPLICATION FOR RENEWAL OF A LICENSE**80033**

Repealed by CDSS Manual Letter No. CCL 01-07, effective 6/29/01

NOTE: Authority cited: Sections 1523 and 1530, Health and Safety Code. Reference: Sections 1520, 1523, 1524, 1525 and 1528, Health and Safety Code.

80034 SUBMISSION OF NEW APPLICATION**80034**

- (a) A licensee shall file a new application as required by Section 80018 whenever there is a change in conditions or limitations described on the current license, or other changes including but not limited to the following:
- (1) Any change in the location of the facility.
 - (2) Any change of licensee, including but not limited to the following when the licensee is a corporation.
 - (A) Sale or transfer of the majority of stock.
 - (B) Separating from a parent company.
 - (C) Merger with another company.
 - (3) Any change in facility category.
 - (4) Any increase in capacity.
 - (A) The licensing agency shall have the authority to grant capacity increases without resubmission of an application following a licensing agency review and the securing of an appropriate fire clearance.
 - (5) A permanent change in any client from ambulatory to nonambulatory status.

80034 SUBMISSION OF NEW APPLICATION (Continued)**80034**

- (b) A new application as required by Section 80018 shall be filed whenever an applicant fails to complete a new application within the time limit required by Section 80027(a) if the applicant chooses to continue the application process.
- (c) Repealed by CDSS Manual Letter No. CCL 01-07, effective 6/29/01

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1523.1, and 1531, Health and Safety Code.

80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE FACILITY LICENSE**80035**

- (a) Conditions for forfeiture of a community care facility license may be found in Section 1524 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1524 reads in part:

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

- (a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority change of ownership.
- (b) The licensee surrenders the license to the department.
- (c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.
- (d) The licensee is convicted of an offense specified in Section 220.243.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

HANDBOOK CONTINUES

**80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE
FACILITY LICENSE (Continued)****80035**

HANDBOOK CONTINUES

- (e) The licensee dies. If an adult relative notifies the department of his or her desire to continue operation of the facility and submits an application, the department shall expedite the application. The department shall promulgate regulations for expediting applications submitted pursuant to this subdivision.
- (f) The licensee abandons the facility.

HANDBOOK ENDS HERE

- (1) "Licensee abandons the facility" shall mean either of the following:
 - (A) The licensee informs the licensing agency that the licensee no longer accepts responsibility for the facility, or
 - (B) The licensing agency is unable to determine the licensee's whereabouts after the following:
 - 1. The licensing agency requests information of the licensee's whereabouts from the facility's staff if any staff can be contacted; and
 - 2. The licensing agency has made at least one (1) phone call per day, to the licensee's last telephone number of record, for five (5) consecutive workdays with no response; and
 - 3. The licensing agency has sent a certified letter, requesting the licensee to contact the licensing agency, to the licensee's last mailing address of record with no response within seven (7) calendar days.
- (b) If the facility licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed facility under an Emergency Approval to Operate (LIC 9117 4/93) (EAO) providing the following conditions are met:
 - (1) The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the community care facility.

**80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE
FACILITY LICENSE (Continued)****80035**

- (2) The relative files with the Department within five days of the licensee's death an Application for License (LIC 200 7/91) and evidence of the licensee's death as defined in Section 80001(e)(4).
 - (A) Notwithstanding the instructions on the Application for License (LIC 200 7/91), the Department shall permit the relative to submit only the information on the front side of that form.
- (3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprint cards.
- (c) If the adult relative complies with (b)(1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department's decision on whether to approve a provisional license.
- (d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 80030.
 - (1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 80030 have been met and that the health and safety of the residents of the facility will not be jeopardized.

NOTE: Authority cited: Sections 1524(e) and 1530, Health and Safety Code. Reference: Sections 1524 and 1524(e), Health and Safety Code.

80036 APPLICATION/ANNUAL PROCESSING FEES

80036

- (a) An applicant or a licensee shall be charged application and annual fees as specified in Health and Safety Code Section 1523.1.

HANDBOOK BEGINS HERE

Health and Safety Code Section 1523.1 provides that the fee charged shall be as follows:

Facility Type	Capacity	Original Application	Annual
Foster Family and Adoption Agencies		\$1,000	\$1,000
Other Community Care Facilities Except Adult Day Care Facilities and Adult Day Support Centers	1 - 6	\$ 300	\$ 300
	7 - 15	\$ 450	\$ 450
	16 - 49	\$ 600	\$ 600
	50 +	\$ 750	\$ 750
Adult Day Care Facilities and Adult Day Support Centers	1 - 15	\$ 0	\$ 50
	16 - 30	\$ 100	\$ 100
	31 - 60	\$ 200	\$ 200
	61 - 75	\$ 250	\$ 250
	76 - 90	\$ 300	\$ 300
	91 - 120	\$ 400	\$ 400
	121 +	\$ 500	\$ 500

HANDBOOK ENDS HERE

- (b) No additional fee shall be charged when the licensee requests an increase in capacity between annual anniversary dates.
- (c) When a licensee moves a facility from one location to another, the application processing fee shall be as follows:

Capacity	Relocation
1 - 6	\$50
7 - 15	\$75
16 - 49	\$100
50 +	\$125

80036	APPLICATION/RENEWAL PROCESSING FEES (Continued)	80036
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- (1) To receive the reduced fee the following shall apply:
- (A) The licensee shall have notified the licensing agency before actually relocating the facility.
 - (B) The categorical type of facility shall remain the same when relocating the facility.
 - (C) The fee shall be by requested capacity at the new location.

(d) The application/~~annual~~ processing fee shall be nonrefundable except as provided in Government Code Section 15378.

NOTE: Authority cited: ~~Section 1530~~, Health and Safety Code. Reference: Sections ~~1523.1~~ and 1524, Health and Safety Code; and Section 15378, Government Code.

Article 4. ADMINISTRATIVE ACTIONS**80040 DENIAL OF INITIAL LICENSE****80040**

- (a) Except as specified in Section 80030, which provides for issuance of a provisional license based upon substantial compliance and urgent need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulation.
- (1) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 80058 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
- (2) An application for initial licensure shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

HANDBOOK BEGINS HERE

- (A) Section 11165, subdivision (g) of the Penal Code states:

Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care.

- (B) Section 273(A) of the Penal Code states:

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

HANDBOOK CONTINUES

80041	DENIAL OF A RENEWAL LICENSE	80041
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Repealed by CDSS Manual Letter No. CCL 01-07, effective 6/29/01

NOTE: Authority cited: Sections 1523 and 1530, Health and Safety Code. Reference: Sections 1520, 1523, 1524, 1525, 1526 and 1528, Health and Safety Code.

80042 REVOCATION OR SUSPENSION OF LICENSE**80042**

- (a) The Department shall have the authority to suspend or revoke any license on any of the grounds specified in Health and Safety Code Sections 1550 and 1550.5.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1550 specifies the following grounds:

"The department may deny an application for, or suspend or revoke any license, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

"(a) Violation by the licensee, or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

"(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

"(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

"(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

"(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

"(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services."

- (2) Health and Safety Code Section 1550.5 provides in pertinent part:

"The director may temporarily suspend any license prior to any hearing when, in the opinion of the director, the action is urgent to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall serve the licensee with the temporary suspension order, a copy of available discovery and other relevant evidence in the possession of the department, including, but not limited to, affidavits, declarations, and any other evidence upon which the director relied in issuing the temporary suspension order, the names of the department's witnesses, and the effective date of the temporary suspension and at the same time shall serve the licensee with an accusation.